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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,759	12/05/2005	Sadao Omata	MOR-261-A	3839
48980 7590 02/21/2008 YOUNG & BASILE, P.C. 3001 WEST BIG BEAVER ROAD SUITE 624 TROY, MI 48084				
EXAMINER TANNER, JOCELYN C				
ART UNIT 4133		PAPER NUMBER		
NOTIFICATION DATE 02/21/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@youngbasile.com  
audit@youngbasile.com

### Office Action Summary

**Application No.**

10/559,759

**Applicant(s)**

OMATA ET AL.

**Examiner**

JOCELIN C. TANNER

**Art Unit**

4133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1, 4-9 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 05 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date 12/05/2005 and 9/14/2006  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is in response to the application filed on September 26, 2003 in which claims 1 and 4-9 are presented for examination.

#### ***Status of Claims***

Claims 1 and 4-9 are pending, of which 1 is in independent form. Claims 1 and 4-9 are rejected under 102(e).

#### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 12/05/2005 and 9/14/2006 were filed after the mailing date of the patent application on 9/26/2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Demarais et al (US Patent No. 6,702,830).

Regarding independent claim 1, Demarais discloses a material transport catheter or an "intraductal foreign body removal instrument" (column 2, lines 47-53) including:

a catheter outer sheath or "flexible insertion tube" (12)

a coiled pump member or "wire" (16)

a spindle assembly or "rotating device" (19)

Demarais discloses a wire that terminates at or before the distal end of the insertion tube (column 8, lines 51-55, and FIG 1C).

4. Regarding claim 4, Demarais further discloses the intraductal foreign body removal instrument according to claim 1, with a "wire" (FIG 1C, #16) having turns, i.e. curved portion, on the tip side thereof.

5. Regarding claim 5, Demarais additionally discloses the intraductal foreign body removal instrument according to claim 1, as being a "catheter" (column 3, lines 13-18, 33-36) inserted into an intravital duct, i.e. a blood vessel.

6. Regarding claim 6, Demarais further discloses the intraductal foreign body removal instrument according to claim 1, having a sheath or "flexible guide tube" (column 8, lines 34-37) inserted in the duct and into which the catheter outer sheath or "insertion tube" (FIG 1C, element 12) is inserted loosely.

7. Regarding claim 7, Demarais discloses the intraductal foreign body removal instrument according to claim 4, as being a "catheter" (column 3, lines 13-18, 33-36) inserted into an intravital duct, i.e. a blood vessel.

8. Regarding claim 8, Demarais additionally discloses the intraductal foreign body removal instrument according to claim 4, having a sheath or "flexible guide tube" (column 8, lines 34-37) inserted in the duct and into which the catheter outer sheath or "insertion tube" (FIG 1C, element 12) is inserted loosely.

9. Regarding claim 9, Demarais discloses the intraductal foreign body removal instrument according to claim 5, having a sheath or "flexible guide tube" (column 8, lines 34-37) inserted in the duct and into which the catheter outer sheath or "insertion tube" (FIG 1C, element 12) is inserted loosely.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Levine et al (US Patent No. 5,868,754), de Toledo et al (US Patent No.5,785,689) and Demarais et al (US Patent 6,454,775) are related to medical devices for disrupting, collecting and removing occlusive material from blood vessels and other body lumens.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOCELIN C. TANNER whose telephone number is (571)270-5202. The examiner can normally be reached on Monday through Thursday between 9am and 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Coby can be reached on 571-272-4017. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jocelin C. Tanner/  
Examiner, Art Unit 4133

2/13/2008  
/Frantz Coby/  
Supervisory Patent Examiner  
Art Unit 4133

